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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,604	09/18/2006	Bernard Kraetler	GER0776US	2225
23413 7590 06/10/2010 CANTOR COLBURN, LLP 20 Church Street 22nd Floor Hartford, CT 06103				
EXAMINER PUROL, DAVID M				
ART UNIT 3634		PAPER NUMBER		
NOTIFICATION DATE 06/10/2010		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

### Office Action Summary

**Application No.**

10/564,604

**Applicant(s)**

KRAUETLER, BERNARD

**Examiner**

David M. Puroi

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 10-11 recite "via a window defined by the lateral surface of the shutter" wherein there is no discernible structure of a window as claimed. The use of the term "window" in the present context is incorrect. Note that this issue was raised in the Office action mailed March 4, 2008 and subsequently corrected by the applicant in the response filed September 3, 2008. The use of the term "via" is unclear as recited for it does not set forth a structural or functional limitation but rather appears to be an expression.

Claim 1, line 3 states that a portion of the stiffening bar is disposed internally to the shutter. However, it is unclear as to what is to be considered "internal" as it pertains to the shutter.

Claim 1, line 10 states that a portion of the stiffening bar protrudes from the shutter and lines 11-12 state that a portion of the stiffening bar protrudes in a direction that is substantially perpendicular to the lateral surface each of which appears to be inaccurate for the stiffening bar 12 is disclosed and depicted as being disposed entirely within the sheath 34.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5,8-10,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Varley (U.S. 6,152,207) in view of Krafutler (U.S. Patent No. 5,056,579).

Varley discloses a door comprising vertical sides 28,30,36,38 having slots 36a,38a which define flanges, a flexible shutter 18 which presses against and overlaps an outer face of the flange (see figure 1A), a transverse stiffening bar 54,62,22,22a having engaged therein a guide device 24,42,42a,42b,54a,54b offset relative to a plane of the shutter.

While Varley does not disclose the guide device as having a breakaway or deformation zone, Krafutler discloses a door comprising a guide device 42,43 having a breakaway or deformation zone 422,433, wherein, to incorporate this teaching into the door of Varley for its explicit function of avoiding door damage if impacted would have been obvious to one of ordinary skill in the art.

As to the claim recitation stating that the stiffening bar is disposed internally to the shutter and protrudes from a window, note that Krafutler disclose the use of a sheath 2' in which the stiffening bar 3 is disposed. The interior of the sheath 2' is seen as responding to being internal to the shutter and the opened end of the sheath 2'

responds to a window insofar as defined. Accordingly, this feature cannot be relied upon for patentability.

3. Claims 1-5,8-10,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lichy (U.S. Patent No. 5,765,622) in view of Krafutler (U.S. Patent No. 5,056,579).

Lichy discloses a door comprising vertical slides 20 having flanges 34,26, a flexible shutter 12,46,51 which presses and overlaps the flanges (see figure 2), a transverse stiffening bar 22,86 having engaged therein a guide device 82,84 offset relative to a plane of the shutter.

While Lichy does not disclose the guide device as having a breakaway or deformation zone, Krafutler discloses a door comprising a guide device 42,43 having a breakaway or deformation zone 422,433, wherein, to incorporate this teaching into the door of Lichy for its explicit function of avoiding door damage if impacted would have been obvious to one of ordinary skill in the art.

As to the claim recitation stating that the stiffening bar is disposed internally to the shutter and protrudes from a window, note that Krafutler disclose the use of a sheath 2' in which the stiffening bar 3 is disposed. The interior of the sheath 2' is seen as responding to being internal to the shutter and the opened end of the sheath 2' responds to a window insofar as defined. Accordingly, this feature cannot be relied upon for patentability.

4. Claims 6,7,11-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
5. Applicant's arguments with respect to the claims have been considered and have been addressed above as appropriate.
6. Applicant's amendment to claim 1 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to David M. Purol whose telephone number is (571) 272-6833.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Katherine Mitchell, can be reached at (571) 272-7069. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/David M Purol/  
David M Purol  
Primary Examiner  
Art Unit 3634**

/D. M. P./  
(571) 272-6833  
June 7, 2010